

LFC Requester:

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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/2/2026

Check all that apply:

Bill Number: HB 8Original Correction Amendment Substitute

		Agency Name	
	Reps Gonzales, Hochman-Vigil,	and Code	CUP - 993
Sponsor:	<u>Small</u>	Number:	
Short	<u>Higher Ed. Major Projects Fund</u>	Person Writing	<u>Marc Saavedra</u>
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
	300,000.0	Recurring	GF

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

The bill creates the “higher education major projects fund as a non-reverting fund in the state treasury. This provides a new higher education capital funding mechanism to support large scale projects at New Mexico Public colleges and universities. The bill is aimed at addressing major infrastructure needs, particularly student housing, student life facilities, and large academic/research projects. The bill includes matching fund requirements and performance-related conditions.

The fund is administered by the Higher Education Department (HED) and subject to legislative appropriation. The funds may be used for major capital outlay projects at: 4-year institutions as enumerated in Article 12, Section 11 of the New Mexico constitution, 2-year institutions including community colleges and branch campuses, Tribal colleges located wholly within New Mexico. The bill defines eligible projects, imposes match fund requirements, establishes design and construction phase thresholds, and allows for legislative waiver of match requirements in limited circumstances.

The eligible uses of the fund differ between 4-year institutions and 2-year institutions. For 4-year institutions it includes: Academic, research, instruction, and general-purpose facilities costing \$50 million or more; student housing; and student life projects such as recreation centers, dining halls, athletic facilities for state universities participating in Division 1 athletics and in good standing with the National Collegiate Association, and other campus amenity facilities. The eligible uses for 2-year schools and tribal colleges include student housing and student life projects.

The bill requires institutional matching requirements that vary between the design and construction phases and by the type of institution (4-year and 2-year).

Design Phase

- 4-year institutions (costing \$50 million or more):
 - 25% match for academic/research facilities
 - 50% match for housing and student life projects
- 2-year institutions (no cost threshold):
 - 50% match for housing and student life projects

Construction Phase

- 4-year institutions:
 - 10% match for academic/research facilities
 - 20% match for housing and student life projects
 - Athletic facilities: 50% match with a project cost of at least \$50 million with a non-waivable match and have a six-year graduation rate for first-time full-time freshman of 65% or greater or the current graduation rate is higher than the prior 3-year average.
- 2-year institutions:
 - 50% match for housing and student life projects

The bill does provide a match requirement waiver determined by the HED if the institution cannot reasonably afford the match with non-state resources such as institutional reserves, institutional

bonds in accordance with the Institution Bond Act, property tax levies, federal or tribal support, student fees or other applicable nonstate revenue.

The bill provides a transfer of \$300 million from the General Funds to the higher education major projects fund and establishes priorities for \$150 million for the new school of medicine at the University of New Mexico and \$50 million for the multidisciplinary building at New Mexico State University.

FISCAL IMPLICATIONS

The bill does not contain an appropriation, however, the LFC recommendation includes a transfer of \$300 million to the Higher Education Trust Fund contingent upon the enactment of legislation.

SIGNIFICANT ISSUES

In short, HB 8 recognizes that the scale of modern academic facilities now exceeds the practical limits of the current traditional capital outlay framework and creates a targeted tool to address that reality. Because the current capital outlay process prioritizes allocating funds across many projects, it does not provide a reliable mechanism to finance major capital outlay projects for research, instruction and general purposes when project costs reach or exceed \$50 million. This structural gap forces institutions to rely on multi-year, phased funding approaches that increase costs and delay delivery. The Higher Education Facilities Trust Fund established in HB 8 is designed to fill this gap by supporting eligible major projects at the scale and scope required to meet current academic and research facility needs.

While the bill does provide a mechanism for the HED Secretary to provide waivers in Section E if an institution cannot reasonably afford the match with non-state revenue, smaller institutions may need to be given special consideration. The smaller institution's non-state revenue is limited in amount and what revenues sources that could be used. The smaller institutions, particularly those in rural areas, may not have the capacity to raise sufficient funds through institutional bonds as an example. The waiver could help address these issues.

In addition to waiver in Section E regarding the affordability waivers, the Secretary could also be given the authority regarding the \$50 million cost threshold for 4-year academic/research facilities since it may exclude smaller/rural 4-year institutions, and possibly the larger institutions, from applying even though they may have needs for a facility that may be lower than the \$50 million threshold but more than what such an institution can afford without the help of the trust fund.

The waiver provision plays a crucial role in addressing the diverse financial circumstances of higher education institutions. While it may seem that institutions can simply use their financial balances to meet matching requirements, the reality is more complex. Each institution operates with unique financial structures and constraints that affect their ability to fulfill these requirements. Four-year institutions maintain financial balances for several important reasons. These include ensuring financial stability and managing risks, maintaining adequate cash flow, fulfilling federal grant matching obligations, funding capital projects, making infrastructure repairs, and addressing emergency situations. These balances serve as safeguards and resources for essential operations and unforeseen needs.

It is important to recognize that not all institutional balances are discretionary. Some funds are

restricted by policy and/or legal requirements and can only be used for specific purposes. As a result, institutions may not be able to allocate all or any portion of their balances toward matching requirements, underscoring the necessity of the waiver provision to accommodate varying institutional capabilities.

The waiver process could also bring further clarity and understanding of the resources that institutions may or may not have for matching purposes and provide ideas to find alternative revenue sources for four-year institutions.

The waiver process can serve as an important mechanism for clarifying the full range of resources that institutions either possess or lack for the purpose of meeting matching requirements. Through the review and evaluation steps involved in the waiver process, institutions will likely be required to provide detailed information about their available funds and financial constraints. This transparency helps stakeholders gain a better understanding of institutional capacities regarding matching funds.

Additionally, the waiver process can foster the identification and consideration of alternative revenue sources that four-year institutions might utilize to satisfy matching requirements. By examining their financial circumstances in depth, HED staff, legislative staff, and policy makers may uncover the necessity for alternative revenue sources, other than increasing tuition and fees, for four-year institutions. The process will not only clarify existing resources but also encourages creative and practical solutions for meeting financial obligations associated with major projects through alternative revenue sources.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

The waiver process in Section E. could delay the project and could increase the cost of the project before final approval. Section E. of the bill allows the HED to determine waivers if an institution cannot reasonably afford the match with non-state revenue. The Secretary is required to notify the Director of the Legislative Finance Committee and the Secretary of the Department of Finance and Administration of waiver finding before November 1 and such waivers must also be approved by the legislature before they are granted by the department. This also depends on the interpretation of the word “appropriation” and the stage of the process where the appropriation occurs as described in the “Amendment Section” below.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill is a duplicate of SB 124, however, SB 124 does not include the Section 2 (\$300 million transfer from the GF to the major projects fund and Section 3 (Temporary Provision – Initial Priorities) that includes \$150 million for the new School of Medicine at the University of New Mexico and \$50 million for a multidisciplinary building at New Mexico State university.

TECHNICAL ISSUES

The HED will be required to define waiver criteria and procedures in the rulemaking process to provide a formal understanding of the waiver process.

Section G includes eligibility requirements for division 1 athletic facilities including a six-year graduation rate for first-time full-time freshman. The NCAA uses the Graduate Success Rate (GSR) as the primary metric that is most commonly reported and tracked for Division I student athletes. It measures the percentage of student-athletes who enter an institution and graduate within six years. The GSR adjusts the cohort both for transfers out in good standing and transfer in while the Federal graduation rate (Integrated Postsecondary Education Data System or IPEDS rate) counts all student in the initial cohort and treats most transfers as non-graduates for the institution's rate.

Student athletes are transfer heavy due to NCAA rule changes regarding the transfer portal and Name, Image and Likeness (NIL). HED will need to clearly define the graduation rate in rule since it's calculated in different ways and the transfer mobility of student athletes.

OTHER SUBSTANTIVE ISSUES

The bill establishes specific eligibility requirements for projects, particularly those related to research and Instruction and General purposes, with a minimum cost threshold of \$50 million to qualify for funding from the designated fund. Based on institutional understanding and interpretation, any projects that do not meet this eligibility criteria are expected to follow current practices under existing laws and regulations, such as NMAC 5.3.10. To ensure clarity and prevent confusion, the Higher Education Department would need to explicitly differentiate the processes for major projects from those for other types of projects, especially if this distinction is not clearly defined within the bill itself.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without enactment of HB 8, New Mexico will continue to lack a viable mechanism to finance major capital outlay projects for research, instruction, and general purposes at the \$50 million-plus scale, forcing institutions to rely on fragmented, multi-year funding approaches. This will increase project costs, delay delivery of critical academic facilities, and limit the state's ability to address statewide higher education infrastructure needs.

AMENDMENTS

Section F may need to be clarified depending on the interpretation of appropriation.

Section F of the bill includes the following directive: "Money from the fund shall not be appropriated for construction phase funding prior to the completion of at least fifty percent of the design phase and the submission of design documents to the department and the legislative finance committee."

Further clarification is required regarding Section F, specifically the use of the term “appropriated” and the stage in the process at which appropriation occurs. There is ambiguity as to whether “appropriation” refers to legislative action or if the intention was to describe the disbursement of funds by the Higher Education Department.

Logically, it would seem appropriate for the legislature/Governor to approve the appropriation and waiver before the institution initiates the design phase, thereby minimizing financial risk to the institution. However, if the intent of the bill is for the institution to begin the design phase before the appropriation is made by the legislature—and for the Department of Finance and Administration or the Legislative Finance Committee to confirm that the requirement has been met before recommending appropriation through the legislative process—then the institution’s funding remains at risk. In this scenario, the institution would have to wait for legislative appropriation after already commencing and expending funds in the design phase, which could expose them to potential funding uncertainties.

It’s the institution’s intent that the appropriation be made prior to the start of the design phase and the funding be disbursed for construction by HED to the institution after at least 50% of the design phase and submission of the design document to HED and LFC.

Below is the suggested amendment based on the institution’s flow and the stage in the process in which the appropriation occurs.

Strike the language in Section F and replace it with the following:

“Money from the fund shall not be disbursed to the institution for the construction phase prior to the establishment by the department in consultation with the Legislative Finance Committee that at least fifty percent of the design phase and the submission of design documents have been completed.”